

CHAPTER 2: GENERAL ADMINISTRATIVE REQUIREMENTS



This chapter presents many of the general administrative requirements that apply to the use of HOME Program funds. It discusses eligible administrative costs and limitations, and pre-award costs. It also provides information on Consolidated Plan requirements as they relate to HOME, applicable uniform administrative requirements, written agreements, conflict-of-interest provisions and prohibition against the use of HOME funds for religious organizations or activities.

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ELIGIBLE ADMINISTRATIVE AND PLANNING COSTS

Overview

- ◆ Each participating jurisdiction (PJ) may use up to 10 percent of each year's HOME allocation for reasonable administrative and planning costs. In addition, up to 10 percent of program income deposited in a PJ's local HOME account during a program year may be used for administrative and planning costs. Administrative and planning costs may be incurred by the PJ, state recipient or subrecipient.

Calculating Staff Costs for HOME

- ◆ Eligible administrative and planning costs include expenditures for salaries, wages and related costs of PJ staff persons responsible for HOME Program administration.
- ◆ PJs have two alternatives for determining the amount of staff costs to charge to HOME Program administration.
 - **Option 1:** Include the **entire** salary, wages and related costs of each person whose **primary** responsibility involves program administration assignments.
 - or
 - **Option 2:** Determine the **pro rata share** of salary, wages and related costs of each person whose job includes **any** program administration assignments for each person.

- ◆ A PJ may choose **only one** of these two methods each program year.

Example: In Smithville's Housing Department, the HOME Program director spends approximately 90 percent of her time on HOME Program management, oversight and coordination, while the budget analyst spends only 30 percent of his time on HOME Program management and coordination. Under Option 1, all of the HOME Program director's salary could be charged to HOME administrative/planning costs, but none of the budget analyst's salary could be charged. Under Option 2, 90 percent of the HOME Program administrator's salary and related costs and 30 percent of the budget analyst's salary and other costs could be charged to HOME Program administrative/planning costs.

- ◆ **Assignments as a factor:** For the purpose of determining whether all or a portion of a staff person's salary and related costs may be charged to HOME, PJs must analyze the types of assignments carried out by each individual.
- ◆ HOME Program administrative assignments that should be considered in making this determination include:
 - Developing systems and schedules for ensuring compliance with HOME Program requirements;
 - Developing HOME agreements;
 - Monitoring HOME-assisted housing and housing with designated matching funds;
 - Preparing reports and other documents;
 - Coordinating the resolution of monitoring and audit findings; and
 - Managing or supervising persons whose primary responsibilities include those previously listed.

Other Planning and Administrative Costs

- ◆ In addition to staff salaries and related costs, these include:
 - Goods and services necessary for administration (e.g., utilities, office supplies, etc.);
 - Administrative services under third party agreements (e.g., legal services);

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- Administering a tenant-based rental assistance (TBRA) program;
- Providing public information;
- Fair housing activities;
- Indirect costs under a cost allocation plan prepared in accordance with applicable Office of Management and Budget (OMB) Circular requirements;
- Preparation of the Consolidated Plan; and
- Complying with other federal requirements.

Administrative Costs Versus Project-Related Soft Costs

- ◆ Certain costs may be charged as either administrative and planning costs, **or** as project-related soft costs. These are listed below.
 - **Staff and overhead costs:** These are staff and overhead costs incurred by the PJ, state recipient, subrecipient or third party contractor that are directly related to carrying out specific HOME projects. They include:
 - ✓ Appraisals;
 - ✓ Preparation of work specifications;
 - ✓ Loan processing and underwriting;
 - ✓ Construction inspections and oversight;
 - ✓ Inspections for the presence of lead hazards or defective paint;
 - ✓ Advisory and other relocation services;
 - ✓ Project-specific environmental reviews; and
 - ✓ Homebuyer and tenant counseling (if the buyer or tenant is HOME-assisted).
 - **Compliance costs:** These include the costs of complying with other federal requirements directly related to a specific HOME-assisted project.
- ◆ **Implications of charging to a project:** Charging costs to a specific project has several implications.
 - Project costs count in the maximum per-unit subsidy limit calculation.

- Administrative costs charged to the project should not be included in the loan to the project owner.
 - Project costs trigger 25 percent match.
 - If the project does not go forward, project costs must be charged as administrative costs.
 - ◆ **Implications of charging as administrative and planning costs:**
 - Costs are subject to the 10 percent cap, and
 - Accounting and reporting requirements are simplified.
 - ◆ **Exceptions:**
 - The cost of providing HOME-funded TBRA is an administrative cost and may not be charged as a project-related soft cost.
 - Project-related soft costs incurred by a property owner are considered project-specific and cannot be charged as administrative costs. (For example, if the property owner hires and pays for an appraisal.)
- Note:** A PJ or subrecipient may not charge a fee to a project for ongoing project monitoring and compliance reviews. PJs also may not charge fees for origination or loan servicing.
- ◆ **For more information:** For further guidance, PJs should refer to HUD Notice CPD 96-09 “Administrative Costs, Project-related Soft Costs, and Community Housing Development Organization (CHDO) Operating Expenses Under the HOME Program,” which is provided in the Appendix.

THE CONSOLIDATED PLAN

Overview

- ◆ **Definition:** The Consolidated Plan is a plan of up to five years in length that describes community needs, resources, priorities and proposed activities to be undertaken under certain HUD programs, including Community Development Block Grant (CDBG), HOME, Emergency Shelter Grant and Housing Opportunities for Persons with AIDS (HOPWA).
 - Effective February 6, 1995, the Consolidated Plan replaced previously required planning and application documents, including the HOME Program Description.

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- Any entity that receives HOME funds must submit a Consolidated Plan, including an annual Action Plan (see below), to HUD.
- For details on the contents of a Consolidated Plan, citizen participation and how the plan should be submitted to HUD, see Attachment 2-1.
- ◆ **Action Plan:** Each year, PJs must update the Consolidated Plan by submitting a document, referred to as an Action Plan, to HUD. This annual update describes the specific planned uses of the covered HUD programs, including HOME, as well as certain other program requirements.

UNIFORM ADMINISTRATIVE REQUIREMENTS

PJs and Other Governmental Entities

- ◆ PJs and other governmental entities receiving HOME funds, including those receiving HOME funds as a subrecipient, must comply with certain administrative requirements, generally pertaining to the financial management and audit standards that federal funding recipients must meet. All PJs and government entities should be familiar with these requirements. They are detailed below.
- **OMB Circular A-87 “Cost Principles for State, Local and Indian Tribal Governments”:** This circular establishes principles and standards to provide a uniform approach for determining allowable costs under federal grants and other agreements with states and local governments and Indian tribal governments.
- **Certain provisions in 24 CFR Part 85:** These regulations set forth uniform requirements for financial management systems, procurement, reports and records, and grant close-outs for recipients of federal grant funding. Attachment 2-2 lists the applicable provisions.

Nonprofit Organizations

- ◆ HOME-funded subrecipients that are nonprofit organizations and CHDOs, to the extent that they are acting as subrecipients, also must comply with certain uniform administrative requirements. These requirements are similar, but are not quite the same as those placed on PJs and other governmental entities. All nonprofit HOME subrecipients should be familiar with these requirements, as detailed below.

- OMB Circular A-122, “Cost Principles for Non-Profit Organizations,” or, for institutions of higher education, OMB Circular A-21 “Cost Principles for Educational Institutions”: This circular establishes principles for determining allowable costs under grants, contracts and other agreements with nonprofit organizations. OMB Circular A-122 is in the Appendix.
- **Certain provisions of 24 CFR Part 84:** The regulations at 24 CFR Part 84 implement OMB Circular A-110 and set forth uniform requirements for nonprofit organizations, including financial management systems, property standards, procurement standards, reporting and record-keeping. Attachment 2-2 lists the applicable provisions.

CHDOs

- ◆ The requirements at 24 CFR 84.21, “Standards for Financial Management Systems” apply to CHDOs who are acting as an owner, developer or sponsor of HOME-assisted housing.

Auditing

- ◆ PJs, HOME-funded state recipients, subrecipients and CHDOs acting as subrecipients are required to have audits.

WRITTEN AGREEMENTS

Entering into Written Agreements

- ◆ A written agreement must be entered into ***before any HOME funds are committed or disbursed*** to any entity. In addition, a state recipient, subrecipient or other entity that plans to disburse HOME funds to another entity must first execute a written agreement between itself and the recipient.

Importance of Written Agreements

- ◆ When properly written and executed, a written agreement can be:
 - A valuable management tool for verifying compliance and monitoring performance;
 - A training tool for all parties using HOME funds to learn about the rules and regulations of the HOME Program and other federal regulations; and

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- A PJ's method of enforcing program requirements and protecting its investment.

Contents of Written Agreements

- ◆ A written agreement should serve as a concise statement of the relationship between the PJ and the recipient of HOME funds. It should also clearly state the conditions under which the HOME funds are provided.
- ◆ **Required provisions:** The specific contents of agreements will vary, depending upon the role the entity is asked to assume or the type of project undertaken. The Final Rule details the specific HOME provisions that must be included in written agreements between PJs and the various entities that may receive HOME funds. These provisions are listed below.
 - **Use of funds:** Description of tasks to be performed, schedule for completing tasks, a budget in sufficient detail to effectively monitor performance and the period of the agreement. (For nonprofit and for-profit housing owner, sponsor or developers, the duration of the agreement will be in a separate clause.)
 - **Reversion of assets/program income requirements:** States whether program income proceeds, unexpended funds or other assets will be retained by the recipient for other eligible activities, or will be returned to the PJ.
 - **Uniform administrative requirements:** Compliance with applicable federal administrative requirements (OMB Circular A-87 and applicable provisions of 24 CFR Part 85 for governmental entities, or OMB Circular A-122 and applicable provisions of 24 CFR Part 84 for non-profit entities).
 - **Other program requirements:** Requirements regarding: non-discrimination and equal opportunity; affirmative marketing and minority outreach; environmental review; displacement, relocation and acquisition; labor standards; lead-based paint; and conflict-of-interest.
 - **Affirmative marketing:** Requirements for affirmative marketing in projects of five or more assisted units.
 - **Requests for disbursements of funds:** Requirement that HOME funds may not be requested until funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before requesting funds from the PJ.

- **Records and reports:** Enumeration of records that must be maintained, and information and reports that must be submitted.

- **Enforcement of the agreement:**

This provision is in the agreement with all parties,

including owners, and is the means of enforcing the provisions of the written agreement.

More on Agreement Provisions

Exhibit 2-1 summarizes which of the minimum required provisions must be included in the various types of written agreements.

- ◆ **Drafting the documents:**

PJs will get best results if they work together with legal counsel to draft all contracts, agreements and other legal documents. In

addition, staff should provide legal counsel with information that assists them in understanding HOME rules and their intent.

Drafting Documents: A Learning Tool

Remember that the process of developing written agreements and legal documents can serve as a way for program staff and counsel to develop internal capacity and expand knowledge regarding the technical aspects of the HOME Program.

- ◆ **Amending the documents:** Written agreements may be amended by mutual agreement of the parties when regulations and requirements change, or when adjustments to funding levels or other conditions related to a specific project are needed.

CONFLICT-OF-INTEREST

Requirements for PJs, State Recipients and Subrecipients

- ◆ **Overview:** The HOME Program regulations require PJs, state recipients and subrecipients (including CHDOs that are acting as subrecipients) to comply with two

different sets of conflict-of-interest provisions. The first set of provisions comes from 24 CFR Parts 84 and 85. The second, which applies only in cases **not** covered by 24 CFR Parts 84 and 85, is set forth in the HOME regulations. Both sets of requirements are discussed below.

Subrecipients Under CDBG and HOME

CDBG and the HOME Program differ in the recognition of who is and is not a subrecipient. PJs working with both programs should refer to the CDBG regulations for further clarification and guidance.

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EXHIBIT 2-1: REQUIRED PROVISIONS IN WRITTEN AGREEMENTS							
	PJ Agreement With...						
Required Provisions (§92.504)	State Recipients	Subrecipients (e.g. Consortia members)	Owners, Sponsors, Developers (e.g. CHDOs)	Contractors	Homebuyers	Homeowners	Tenants (Receiving TBRA)
Use of HOME Funds	✓	✓	✓	✓	✓	✓	
Affordability (§92.252 or §92.254)	✓		✓		✓		
Program Income	✓	✓					
Uniform Administration Requirements (§92.505)	✓	✓					
Project Requirements (as applicable in Subpart F)	✓		✓		✓ §92.254(a) only	✓ §92.254(b) only	✓ §92.209 and §92.253 only
Property Standards (§92.251 and §92.355)			✓				
Other Program Requirements (Subpart H except §92.352 and §92.357)	✓	✓		✓ except §92.505, §92.506, and §92.352			
Affirmative Marketing (§92.351)	✓	✓	✓				
Requests for Disbursement of Funds	✓	✓	✓				
Reversion of Assets		✓					
Records and Reports	✓	✓	✓				
Enforcement of the Agreement (§92.252 and 24 CFR Part 85 as applicable)	✓	✓	✓		✓		
Duration of the Agreement	✓		✓	✓			
Conditions for Religious Organizations (§92.257)			✓				
CHDO Provisions (§92.300 and §92.301)			✓				
Suggested Provisions (not HOME requirements)							
Roles and Responsibilities	✓	✓	✓	✓			
Description of the Project	✓	✓	✓				
Performance Standards	✓	✓	✓	✓			
Conflict of Interest	✓	✓	✓				
Monitoring	✓	✓	✓	✓	✓		
Close-out Requirements	✓	✓	✓				
Non-compliance	✓	✓	✓	✓	✓		

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- ◆ **Activities covered by CFR provisions:** In the procurement of property and services by PJs, state recipients and subrecipients, the conflict-of-interest provisions at 24 CFR 85.36 and 24 CFR 84.42 apply. These regulations require PJs and subrecipients to maintain written standards governing the performance of their employees engaged in awarding and administering contracts. At a minimum, these standards must:
 - Require that no employee, officer, agent of the PJ or its subrecipients shall participate in the selection, award or administration of a contract supported by HOME if a conflict-of-interest, either real or apparent, would be involved;
 - Require that PJ or subrecipient employees, officers and agents not accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to subagreements; and
 - Stipulate provisions for penalties, sanctions or other disciplinary actions for violations of standards.
- ◆ A conflict would arise when any of the following has a ***financial or other interest*** in a firm selected for award:
 - An employee, agent or officer of the PJ or subrecipient;
 - Any member of an employee's, agent's or officer's immediate family;
 - An employee's, agent's or officer's partner; or
 - An organization that employs or is about to employ an employee, agent or officer of the PJ or subrecipient.
- ◆ **Activities covered by HOME regulations:** In cases not covered by 24 CFR 85.36 and 24 CFR 84.42, the HOME regulations at 24 CFR 92.356 governing conflict-of-interest apply. These provisions cover employees, agents, consultants, officers and elected or appointed officials of the PJ, state recipient or subrecipient. The HOME regulations state that no person covered who exercises or has exercised any functions or responsibilities with respect to HOME activities or who is in a position to participate in decisions or gain inside information:
 - May obtain a financial interest or benefit from a HOME activity; or

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- Have an interest in any contract, subcontract or agreement for themselves or for persons with business or family ties.
- ◆ This requirement applies to covered persons during their tenure and for one year after leaving the PJ, state recipient or subrecipient entity.
- ◆ **Exceptions:** Upon written request, exceptions to both sets of provisions may be granted by HUD on a case-by-case only after the PJ has:
 - Disclosed the full nature of the conflict and submitted proof that the disclosure has been made public, and
 - Provided a legal opinion from the PJ stating that there would be no violation of state or local law if the exception were granted.

Provisions for Nonprofit and For-Profit Owners, Developers and Sponsors

- ◆ The HOME Final Rule includes conflict-of-interest provision applicable to for-profit and nonprofit owners, developers and sponsors of HOME-assisted housing. This provision states that no owner, developer or sponsor of HOME-assisted housing, including their officers, employees, agents, consultants or elected or appointed officials, may occupy a HOME-assisted unit in a development. This provision **does not** apply to:
 - An individual receiving HOME funds to acquire or rehabilitate his/her principal residence, or
 - An individual living in a HOME-assisted rental housing development where he/she is a project manager or a maintenance worker in that development.
- ◆ **Exceptions:** Exceptions to this conflict-of-interest provision (governing owners, developer and sponsors of HOME-assisted housing) may be granted by the PJ on a case-by-case basis based on the following factors as set forth in the regulations:
 - Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of assisted housing, and the exception will

Additional Conflict-of-Interest Requirements

The HOME regulations set forth minimum conflict-of-interest requirements. PJs may establish higher standards in order to conform with state/local laws, or to avoid other types of possible conflicts.
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permit him or her to receive generally the same interests or benefits as are being made available or provided to the group as a whole;

- Whether the person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted housing in question;
- Whether the tenant protection requirements of CFR 92.253 (prohibited lease terms, termination of tenancy and tenant selection) are being observed;
- Whether the affirmative marketing requirements are being observed and followed; and
- Any other factor relevant to the PJ's determination, including the timing of the requested exception.

◆ **Executing and maintaining conflict-of-interest provisions:**

While not specifically required in the HOME regulations, PJs should include the conflict-of-interest provision in written agreements and other documents with owners, developers and sponsors. In addition, monitoring of projects should include necessary actions to ensure that this provision is adhered to.

RELIGIOUS ORGANIZATIONS

- ◆ HOME funds **may not** be provided to primarily religious organizations for any activity, including secular activities. This means that the funds may not be used to rehabilitate or construct housing owned by primarily religious organizations or to assist primarily religious organizations in acquiring housing.
- ◆ However, HOME funds **may** be used by a secular entity to acquire housing from a primarily religious entity. In addition, a primarily religious entity may transfer title to its property to a wholly secular entity, and the secular entity may use HOME funds to rehabilitate or construct housing.
 - The secular entity may be existing or newly established by a primarily religious entity.
 - Housing completed and owned by the wholly secular entity must be available to all persons, regardless of religion. In particular, there must be no religious or membership criteria for tenants of the property.

HOME INVESTMENT TRUST FUND ACCOUNTS

- ◆ There are two trust fund accounts that must be established for each participating jurisdiction (PJ): a U.S. Treasury HOME Investment Trust Fund account, and a Local HOME Investment Trust Fund account.

Treasury HOME Investment Trust Fund

- ◆ HUD establishes a Trust Fund set-aside at the U.S. Treasury for HOME funds allocated (or reallocated) to the PJ by HUD.
- ◆ Funds from the Treasury are drawn down by the PJ through the Integrated Disbursement and Information System (IDIS). The system applies certain restrictions on how funds may be drawn down. For example: at least 15 percent must be reserved and drawn for CHDO development activities; no more than 10 percent may be drawn for administrative costs.

Local HOME Investment Trust Fund

- ◆ The local HOME Investment Trust Fund account is established by the PJ at a local banking institution.
- ◆ The local Trust Fund includes the following:
 - HOME funds disbursed from the U.S. Treasury (wire transfers);
 - Repayments of HOME funds, if any;
 - Repayments of matching contributions, if any;
 - Interest or other return on investment of HOME and matching funds; and
 - Where applicable, funds used to make up the shortfall between the formula amount and \$750,000 (or \$500,000, if that is the amount needed to qualify as a PJ).
- ◆ The PJ may establish or designate a second HOME Investment Trust Fund if:
 - The PJ has its own affordable housing trust fund that it will use for matching contributions,
 - There is a local ordinance that requires repayments from the PJ's trust fund to be made to the trust fund,

- The PJ establishes a separate account within the trust fund for repayment of matching contributions, and
- The account is used solely for HOME activities in the PJ.

Integrated Disbursement and Information System (IDIS)

- ◆ There are two key objectives of the IDIS:
 - To manage and account for disbursements of HOME funds to participating jurisdictions; and
 - To collect, consolidate and report information regarding HOME Program performance.
- ◆ The IDIS is like a “bank.” Each PJ has an account in the bank, and each account contains a deposit of HOME monies (and other HUD funds). PJs can withdraw funds from the account by using a PC, much like computerized banking. But, unlike a bank checking account, the PJ must maintain information regarding the purpose for each expenditure (that is, activity information).

Highlights of the IDIS

- ◆ **Electronic Data:** IDIS uses electronic data entry to receive all required system communications including project and activity set up, progress and completions, all disbursements -- and project/activity amendments.

To IDIS, “Project” relates to the Consolidated Plan Action items.

In IDIS, each HOME project is called an “activity”.
- ◆ **Real time data:** IDIS is a real-time, mainframe-based computer application. Provides up to date information on activities and grants.
- ◆ **Program income:** HOME program income must be used for HOME-assisted projects **before** new HOME funds may be drawn down. When program income is reported in IDIS, you must select it for the next drawdown for the activity the PJ performs.
- ◆ **Deobligations:** Amounts to be deobligated, if any, will be determined 24 months after the PJ receives a HOME allocation. Deobligations will consist of:
 - That portion of the PJ’s total HOME allocations **not committed**, and

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- That portion of the 15 percent CHDO set-aside ***not reserved for a CHDO or CHDOs.***
- ◆ **Commitment:** HOME funds are “committed” by means of:
 - Legally binding agreements with contractors, subrecipients and state recipients to specific activities; or
 - Reservation of funds for CHDOs or other entities; or
 - Funding the activity.
- ◆ The definition of commitment to a ***specific HOME project*** is:

Remember: Each HOME project is an “activity” in IDIS.

 - For privately-owned projects, it requires execution of a written agreement under which construction is reasonably expected to begin within 12 months of the date of the agreement.
 - For publicly-owned projects, it requires activity set-up in the IDIS system. There must also be a reasonable expectation that construction will start within 12 months of the project start up date.
 - When HOME funds will be provided for acquisition of standard housing, it requires execution of a written agreement under which transfer of title is to occur within six months of the date of the acquisition contract.
- ◆ Deobligation deadlines fall 24 months after the last day of the month in which HUD notifies the PJ of HUD’s execution of the HOME Investment Partnership Agreement with the PJ.
- ◆ **IDIS reporting capabilities:** IDIS requires ***Activity Set-up*** information and ***Activity Completion*** information to be entered by the PJ.
 - The PJ can download and print standardized financial and project/activity reports from IDIS at any time.

Steps Necessary Prior to Use of IDIS

- ◆ Before the PJ can access IDIS and “commit” HOME funds, the PJ must identify the person(s) who will have the responsibility to set up activities and request disbursement of funds in IDIS. The process:
 - PJ submits to HUD the name of the IDIS Local System Administrator and other authorized users.
 - HUD grants security clearance to designated PJ staff and issues security passwords.

Important!

For maximum check and balance security, the individual(s) authorized to make disbursements should be different from the individual(s) authorized to set up activities.
 - The PJ's Local System Administrator updates user access profiles for the users in their organization (viewing activities, set-up, drawdown, activity funding, reports, etc.).
- ◆ A bank depository must also be selected to receive HOME funds from the U.S. Treasury.
 - The PJ can obtain a Form 1199A with transit number and the signature (approval) from bank.
 - The PJ should then submit the completed 1199A form to their HUD Representative at their local Field Office.
 - The HUD Representative will submit the form to the Chief Financial Officer, National Accounting Center, 801 Cherry Street 25th Floor, Fort Worth, TX 76101.
 - IDIS makes wire transfers (disbursements) to this bank account.

Steps in the IDIS Process for a HOME Activity

Key Activity Steps in IDIS	
1.	Activity set-up.
2.	Activity funding.
3.	Disbursements of HOME funds requested via IDIS, as needed.
4.	Activity Completion Report.

- ◆ Once a PJ executes the HOME Investment Partnership Agreement with HUD, submits the banking and security documents (discussed previously) and complies with applicable environmental review requirements, it can set up and draw down funds for HOME activities in IDIS.

NOTES**1. Activity set-up**

What: HOME activities are set-up as activities in IDIS.

When: Each activity should be set up when a legally binding agreement has been entered into between the PJ and the project owner or, for a TBRA activity, when an agreement is entered into between a tenant and the PJ or other authorized entity.

An activity should not be set up unless construction is expected to commence within 12 months of the set-up.

Who: The set-up is made by the designated PJ official who has been authorized to perform this step, and who has been provided with a security password.

CHDOs do not have direct access to IDIS.

State recipients may have direct access to IDIS if approved by the state to perform these functions.

How: The activity set-up is accomplished by PJ staff using a personal computer (PC) with a modem or LAN connection to the Internet and an Internet browser. The PJ must enter activity information for the activity set-up, including:

- Activity address;
- Owner name, address and phone number;
- Form of ownership;
- Type of activity (set up type);
- Number of units (before and after completion); and
- Household characteristics (income, race, number of bedrooms and rent levels).

2. Activity funding

What: Funding for an activity is entered in IDIS by the PJ.

When: Option 1 – at Activity Funding.

Who: The PJ must designate each funding source for an activity.

How: The PJ must enter information for activity funding in IDIS.

3. Activity disbursement

- What: Activity disbursement is the drawdown of HOME funds through IDIS for HOME-assisted activity expenditures.
- When: An activity disbursement occurs when the PJ (or other entity) anticipates the need for HOME funds for a payment.
- A disbursement will be made for progress and final payments on activities.
- All HOME funds must be disbursed to a payee (contractor, etc.) **within 15 days** of receipt from the U.S. Treasury.
- Who: The PJ individual(s) authorized to make and approve drawdown requests. System access, drawdown and approval authority is necessary to initiate and approve a drawdown request.
- How: The request is fully automated (no person-to-person contact).
- More than one activity drawdown can be made on each request (cannot mix CHDO draws with other draws).

4. HOME Completion Path Data Entry

- What: Completion information must be entered into IDIS for each activity completed with HOME funds (except administrative or CHDO operating).
- When: The initial Activity Completion Data entry must be entered into IDIS within **120 days** of final disbursement.
- Who: One or more individuals should be designated by the PJ as responsible for entering the completed data into IDIS.
- How: Activity Completion information can be entered and updated at any time after final disbursement, because some data -- such as rent levels and household characteristics -- may not be known for some time after completion.

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Completion information should continue to be updated for multi-unit activities until all units have been rented or sold.

The PJ must enter activity completion information including:

- Owner name and address,
- Type of property,
- Itemization of costs by form of assistance and funding source, and
- Homeowner or tenant characteristics.

Note: Affordability periods on HOME assisted units do **not** begin until the completion report has been submitted for that activity.

5. **Changing Activity Status to Complete**

What: Activity completion is triggered by a final drawdown of HOME funds.

Excess HOME funds committed to an activity in IDIS must be deobligated under Activity funding either before or after completion of the activity in order for them to be returned to the PJ's Trust Fund account. (IDIS automatically deobligates excess funds when activity is marked completed.)

When: The final drawdown is made when a final payment of HOME funds will be needed.

Who: The drawdown request is made by the same PJ individual who is authorized and responsible for all IDIS drawdown requests.

How: Same as #3 above.

KEY IDIS THRESHOLDS

Action	Timeframe	IDIS Penalty
1. Establish wire data transfer account/ identify people with access to IDIS	Immediately after signing HOME Partnership Agreement	No access to IDIS
2. "Commit" all FY HOME Funds (CHDO and Other)	24 months of agreement	Deobligation of uncommitted funds
3. Reservation of FY funds for CHDOs	24 months of agreement	Deobligation of CHDO set-aside
4. Enter Activity Set-Up information	Immediately after execution of legally binding agreement for use of HOME funds	Cannot "commit" funds, no draws on activity permitted
5. Enter Activity Completion information in IDIS	120 days of final draw	None (except that affordability periods do not begin until activity completion reports are submitted).

HOME PROGRAM INCOME
Program Income Defined

- ◆ Program income is the income received by a PJ, state recipient or subrecipient directly generated from the use of HOME funds or matching contributions. Program income includes, but is not limited to:

Program Income and Guaranteed Loans

Repaid loans guaranteed with HOME monies are not considered program income and are not subject to HOME requirements.

 - Proceeds from the sale or long-term lease of real property acquired, rehabilitated or constructed with HOME funds or matching contributions;
 - Income from the use or rental of real property owned by a PJ, state recipient or subrecipient that was acquired, rehabilitated or constructed with HOME funds or matching contributions, minus the costs incidental to generating that income;
 - Payments of principal and interest on loans made with HOME or matching funds, and proceeds from the sale of loans or obligations secured by loans made with HOME or matching contributions;
 - Interest on program income; and

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- Any other interest or return on the investment of HOME and matching funds.
- ◆ Program income derived from consortium activities remains consortium program income – even if those activities were carried out in, or by, a jurisdiction that has left the consortium.

General Requirements

- ◆ All HOME program income must be used in accordance with the HOME program rules.
- ◆ Program income must be expended before additional HOME funds are drawn down from the Treasury.
- ◆ Written agreements with state recipients, subrecipients, consortium members and developers (including CHDOs) must specify whether program income is to be returned to the PJ or used by the other entity to carry out further HOME activities. For entities who will retain and use their program income, the specific uses for those funds must be detailed.

Subrecipients vs. CHDOs

- ◆ Where program income is concerned, there is an important distinction between subrecipients/state recipients and CHDOs.
 - Program income received by subrecipients or state recipients, such as rental income, repayment of loans, interest on loans, fees and payments for services, is considered program income subject to HOME regulations.
 - However, project proceeds received by CHDOs may be considered program income. PJs have the option of permitting project proceeds to be retained by CHDOs or they may require CHDOs to return these proceeds to the PJ. Specific use of funds must be specified in the CHDO written agreement and limited to either HOME-eligible activities or other housing activities that benefit low-income families (see Chapter 8: CHDOs).
- ◆ A case study on program income is provided as Attachment 2-3 to this chapter.

Recaptured Funds

- ◆ Any amount recaptured as a result of a homebuyer property being sold within the affordability period must be used for HOME projects in accordance with all HOME rules. This

requirement must be stated in written agreements between the PJ and state recipients, subrecipients or CHDOs.

- ◆ Recaptured funds are a return of original HOME investment and are technically not program income. Therefore, unlike program income, 10 percent of recaptured funds **cannot** be used for planning and administrative costs.

PRE-AWARD COSTS

- ◆ With the publication of the Final Rule, PJs may incur eligible costs prior to the effective date of their annual HOME Investment Partnership Agreement, subject to certain conditions.
- ◆ Both administrative/planning and project costs may be incurred. Only costs eligible under the HOME Program rules in effect at the time the costs are incurred are included.
- ◆ Expenditures must meet all regulatory requirements, including environmental review regulations.
- ◆ Exhibit 2-2 provides a checklist for pre-award costs.

Exhibit 2-2

CHECKLIST FOR PRE-AWARD COSTS

- ✓ Have applicable environmental review requirements been met?
- ✓ For administrative costs, has the Consolidated Plan been received by HUD or has the Consolidated Program Year begun?
- ✓ For project costs, have all applicable citizen participation requirements been met, including inclusion of projects in a full action plan or "mini" plan?
- ✓ For project costs, is there a planning and tracking system in place to assure that an amount no greater than 25 percent of current year's grant is expended?
- ✓ Have all authorizations to subrecipients and state recipients been made in writing, and have all applicable HOME requirements been met, including citizen participation?

Pre-Award Administrative and Planning Costs

- ◆ Administrative and planning costs may be incurred as of:
 - the beginning of the PJ's consolidated program year,
 - OR
 - the date the PJ's Consolidated Plan is received by HUD,

NOTES

...WHICHEVER IS LATER!

Example: If a PJ's program year begins January 1 and the PJ does not have an executed grant agreement, but wants to incur pre-award planning/administrative costs, the following would apply:

- *If the PJ submitted a Consolidated Plan prior to January 1, it can incur costs as of January 1.*
- *If the PJ submitted a Consolidated Plan after January 1, the date the plan was received by HUD is the date it can start incurring pre-award planning/administrative costs.*
- *If the PJ has not submitted a Consolidated Plan, it cannot incur pre-award planning/administrative costs until it does so. (This is an incentive for PJs to submit their Consolidated Plans in a timely manner.)*

Pre-Award Project Costs

- ◆ Limited project costs may be incurred at **any time** during the PJ's program year, provided applicable citizen participation requirements have been met. This means PJs must develop:
 - a full action plan, **or**
 - a "mini" action plan. The mini action plan must fully describe proposed pre-award projects. It must also state that HOME funding of such projects is subject to future availability of funds. These projects must then be included in the subsequent full action plan.
- ◆ Pre-award project costs may not exceed **25 percent** of the current HOME grant without written approval from HUD.
 - PJs may authorize subrecipients and state recipients to incur pre-award costs, but authorization must be in writing. Citizen participation and all other applicable HOME requirements also must be met.
- ◆ The total of pre-award project expenses incurred by subrecipients is counted toward the 25 percent cap imposed on PJs.

Example: If the current year's grant is \$1,000,000, the total amount of pre-award project costs may not exceed \$250,000. This is true even if the new grant will be more than \$1,000,000.

ATTACHMENT 2-1

THE CONSOLIDATED PLAN

Overview

- ◆ The Consolidated Plan is a plan of up to five years in length that describes community needs, resources, priorities and proposed activities to be undertaken under certain HUD programs, including Community Development Block Grant (CDBG), HOME, Emergency Shelter Grant and Housing Opportunities for Persons with AIDS (HOPWA).
 - Any entity that receives HOME funds must submit a Consolidated Plan, including an annual Action Plan (see below), to HUD.
 - Effective February 6, 1995, the Consolidated Plan replaced previously required planning and application documents, including the HOME Program Description.
- ◆ Each year, PJs must update the Consolidated Plan by submitting a document, referred to as an Action Plan, to HUD. This annual update describes the specific planned uses of the covered HUD programs, including HOME, as well as certain other program requirements.

What the Consolidated Plan Must Include

- ◆ To meet the minimum requirements set forth by HUD, a Consolidated Plan must include five main components.
 1. A **description of the lead agency** or entity responsible for overseeing the development of the Consolidated Plan and a **description of the process undertaken** to develop the plan.
 2. A **housing and homeless needs assessment** that includes:
 - ✓ Number and type of families in need of housing assistance;
 - ✓ Disproportionate needs of minority groups (if applicable);
 - ✓ Nature and extent of homelessness;
 - ✓ Number of persons requiring supportive housing;
 - ✓ Size and characteristics of population with HIV/AIDS; and
 - ✓ Estimate of housing units occupied with low- and moderate-income families with lead-based paint hazards.

3. A **housing market analysis** that contains:

- ✓ Supply, demand, cost and condition of housing;
- ✓ Housing stock available to persons with special needs;
- ✓ Description of areas of minority and low-income concentrations;
- ✓ Number, physical condition and rehabilitation needs of public housing units;
- ✓ Housing authority's strategy for improving management and operations of public housing and for improving the living environment of families residing in public housing; and
- ✓ Identification of public housing developments participating in the Comprehensive Grant Program, including a reference to those being funded with other funds covered by the Consolidated Plan.

4. A **strategic plan** (of up to five years in length) that includes the following:

- ✓ General housing, homeless and special needs priorities and geographic investment among priority needs;
- ✓ Identification of any obstacles to meeting underserved needs;
- ✓ Description of how funds made available will be used to address priority needs;
- ✓ Proposed accomplishments over a specific time period;
- ✓ Non-housing community development plan;
- ✓ Neighborhood revitalization strategy (optional);
- ✓ Strategy to remove or ameliorate barriers to affordable housing;
- ✓ Actions to evaluate and reduce lead-based paint hazards;
- ✓ Anti-poverty strategy;
- ✓ A description of the institutional structure;
- ✓ A description of activities to enhance coordination between public and private housing providers; and
- ✓ Public housing resident initiatives.

5. A one-year **Action Plan** which contains:

- ✓ Application form (SF 424),
- ✓ A description of federal and other resources expected to be available,
- ✓ A description of leveraging of sources and how match obligations will be met,
- ✓ A description of the activities to be undertaken, including HOME-funded projects and programs by:
 - Number and type of families that will benefit
 - Priority needs addressed
 - Program income anticipated
 - Proposed accomplishments
 - Target completion dates
- ✓ A description of the geographic distribution of investment,
- ✓ A description of planned homeless and other special needs activities,
- ✓ A description of other actions proposed to:
 - Address obstacles to meeting underserved needs
 - Foster and maintain affordable housing
 - Remove barriers to affordable housing
 - Evaluate and reduce lead-based paint hazards
 - Reduce the number of families in poverty
 - Develop the community's institutional structure
 - Enhance coordination between public and private housing providers and social service agencies
 - Foster public housing improvements and resident initiatives.
- ✓ Appropriate reference to annual revisions to the action plan prepared for the Comprehensive Grant Program by the housing authority,
- ✓ If the housing authority is designated as a "troubled" housing authority, the plan to assist the agency in addressing its problems,
- ✓ Certifications, and
- ✓ HOME-specific requirements (see below).

The HOME Program and the Consolidated Plan

- ◆ As stated previously, in order to receive HOME funds as a PJ under the HOME Program, a PJ must have a HUD-approved Consolidated Plan.
- ◆ The Plan must include all of the contents listed above, some of which are not directly related to the HOME Program. Below are some of the key required elements of a Consolidated Plan Action Plan One-Year Action Plan which are specific to the HOME Program.
 - Use of HOME funds: Description of the HOME activities to be undertaken.
 - Matching funds: Description of how matching requirements will be satisfied.
 - Leveraging: Explanation of how federal funds will leverage other resources.
 - Recapture/resale provisions: If a PJ plans to use HOME funds for homebuyer activities, it must state the guidelines it will use for resale or recapture.
 - Other forms of investment: If a PJ plans to use a form of investment not described in the HOME regs, it must describe the form of investment (see the section in Chapter 3 entitled “Eligible Forms of Subsidy” for more information).
 - Multi-family refinancing guidelines: If PJ plans to use HOME funds to refinance existing debt secured by multi-family rental properties that is being rehabilitated with HOME funds, it must include a description of the conditions under which it will refinance such debt in accordance with the guidelines of 92.206(b) (See Chapter 6: Rental Housing Activities). Note: There is no similar requirement for single-family refinancing guidelines.
- ◆ In addition, the Action Plan must include certain PJ certifications. Of these certifications, the following are HOME Program-specific:
 - Tenant-based rental assistance: If using HOME funds for tenant-based rental assistance, the PJ must certify that tenant-based rental assistance is an essential element of its Consolidated Plan. This means that the Consolidated Plan must clearly demonstrate a need for such assistance through an analysis of housing market conditions, that the assistance will address the need and the choice of this option as a strategy to meet the identified need. If the PJ provides a preference for a specific category of individuals with disabilities, the specific category must be identified in the Consolidated Plan as having an unmet need and the Plan must demonstrate that the preference is needed to narrow the gap in benefits and services received by such persons.
 - Eligible activities and costs: This certification states that the PJ is using and will use HOME funds for eligible activities and costs, and that it will not use HOME funds for prohibited activities.

- Appropriate financial assistance: This certification states that, before committing HOME funds to a project, it will evaluate the project in accordance with guidelines that it adopts for this purpose and will not invest any more HOME funds, in combination with other federal funds, than necessary to provide affordable housing. This provision is generally referred to as layering. This means that PJs must adopt written layering guidelines and evaluate each project in accordance with its layering guidelines. (See Chapter 6: Rental Housing Activities for more information on layering guidelines.)

Citizen Participation

- ◆ HUD requires extensive citizen participation and consultation during the preparation of the Consolidated Plan. PJs must ensure that these requirements are met.
- ◆ In addition, each PJ must consult with other public and private agencies that provide assisted housing, health services, social services, child welfare agencies (regarding lead paint), adjacent units of local government (for non-housing community development needs) and local housing authorities.
- ◆ Each PJ is required to prepare a Citizen Participation Plan which details the community's procedures for involving the public in its program planning and implementation. (The complete requirements can be found in 24 CFR 91.105.)
- ◆ HUD has a minimum set of requirements for citizen participation during the planning process. They are listed below.
 - The PJ must hold at least two public hearings a year to obtain citizens' views and to respond to proposals and questions. They should be conducted (at a minimum) at two different stages of the planning process, for example, when data is being collected for the plan and when a draft plan has been developed.
 - One of the public hearings should be held during the development of the plan. This counts as one of the two required public hearings.
 - The proposed Consolidated Plan must be published. At a minimum, the PJ is required to publish a summary of the proposed plan in one or more newspapers of general circulation, and make copies available in libraries, government offices and public places.
 - A 30-day period for citizen review and comment prior to submitting the plan to HUD is required.
 - Public comments must be given consideration. The plan should include a summary of comments received and reasons that comments/suggestions were not incorporated.

Submission to and Review by HUD

- ◆ A PJ's Consolidated Plan and Action Plan must be submitted to the appropriate field office for review and approval at least 45 days before the start of the PJ's program year. HUD will not accept a submission earlier than November 15 or later than August 16 of the federal fiscal year for which the grant funds are appropriated.

- ◆ HUD will review the Consolidated Plan upon receipt. The plan is deemed approved after 45 days **unless** HUD notifies the PJ before the date that it is disapproved.
 - Within 15 days of a disapproval notice, HUD must provide the PJ with written reasons for disapproval and required corrective actions.
 - The PJ then has 45 days to resubmit its revised Consolidated Plan.
- ◆ **Why Consolidated Plans are disapproved:** HUD will approve the plan **unless**:
 - any portion of the plan is inconsistent with the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12703);
 - the plan is "substantially incomplete," meaning:
 - ✓ It was developed without the required citizen participation or the required consultation,
 - ✓ It does not include all the elements listed in 24 CFR 91.200 through 91.225, or
 - ✓ It contains an inaccurate certification.

Amendments

- ◆ There are times when a PJ must amend its Consolidated Plan after it has been approved. The PJ's Citizen Participation Plan must specify the criteria the PJ will use for determining what changes constitute a "substantial amendment" to its Consolidated Plan.
 - The criteria must include changes in the use of CDBG funds from one eligible activity to another.
 - Other criteria PJs may use to define a substantial amendment include:
 - ✓ A change in allocation priorities or its method of distributing funds;
 - ✓ A change resulting in a new activity not included in the Consolidated Plan; or
 - ✓ A change in the purpose, scope, location or beneficiaries of an activity.
- ◆ PJs must follow certain citizen participation procedures for amendments, including public notice and comment requirements.

Attachment 2-2

Provisions of 24 CFR Part 85 Applicable to PJs and Other Governmental Entities Acting as Recipients or Subrecipients Under the HOME Program

- 85.6 Additions and exceptions
- 85.12 Special grant or subgrant conditions for "high risk" grantees
- 85.20 Standards for financial management systems
- 85.22 Allowable costs
- 85.26 Non-federal audit
- 85.32 Equipment
- 85.33 Supplies
- 85.34 Copyrights
- 85.36 Procurement
- 85.44 Termination for convenience
- 85.51 Later disallowances and adjustments
- 85.52 Collection of amounts due

Provisions of 24 CFR Part 84 Applicable to Nonprofit Organizations Acting as Subrecipients Under the HOME Program

- 84.2 Definitions
- 84.5 Subawards
- 84.13 Debarment and suspension; Drug-Free Workplace
- 84.16 Resource Conservation and Recovery Act
- 84.21 Standards for financial management systems
- 84.22 Payment
- 84.26 Non-Federal audits
- 84.27 Allowable costs
- 84.28 Period of availability of funds
- 84.30 Purpose of property standards
- 84.31 Insurance coverage
- 84.34 Equipment
- 84.35 Supplies and other expendable property
- 84.36 Intangible property
- 84.37 Property trust relationship
- 84.40 Purpose of procurement standards
- 84.41 Recipient responsibilities
- 84.42 Codes of conduct
- 84.43 Competition
- 84.44 Procurement procedures
- 84.45 Cost and price analysis
- 84.46 Procurement records
- 84.47 Contract administration
- 84.48 Contract provisions
- 84.51 Monitoring and reporting program performance
- 84.60 Purpose of termination and enforcement
- 84.61 Termination
- 84.62 Enforcement
- 84.72 Subsequent adjustments and continuing responsibilities
- 84.73 Collection of amounts due

ATTACHMENT 2-3

PROGRAM INCOME CASE STUDY

Middle City received an allocation of \$500,000 in HOME Program funds from HUD. Middle City allocated \$200,000 of the funds to its homeowner rehabilitation program. This program provides direct loans with interest rates ranging from two to five percent, depending upon income to eligible owner occupants for the repair or rehabilitation of their homes. Through the repayment of principal and interest on the loans, this program generates approximately \$25,000 in program income. In accordance with the HOME Program requirements, this program income is placed in the PJ's HOME Investment Trust account, and is used, prior to the drawdown of HOME funds from the U.S. Treasury, for other HOME-eligible housing activities.

Middle City also provided a total of \$300,000 to two different CHDOs for eligible CHDO set-aside activities. The first project, which received \$150,000 in HOME funds, was undertaken by Middle City Housing (MCH). This project involved the construction of a new multi-family rental property containing 25 apartments. Middle City -- the PJ -- provided the HOME funds to MCH in the form of a low-interest, deferred payment loan. The principal and interest on the loan would have to be repaid beginning in the third year of the project's operation. The loan repayments to the PJ would be considered program income, placed in the PJ's HOME Investment Trust account and expended for other HOME-eligible activities prior to the drawdown of additional HOME funds from the U.S. Treasury.

The second CHDO project, developed by another CHDO known as Community Builders, Inc., involved the acquisition and rehabilitation of single-family housing. Upon completion of the rehabilitation, the CHDO sold the housing units to eligible low-income homebuyers. Middle City provided \$150,000 in HOME funds for the rehabilitation, and was allowing Community Builders, based on its track record and capacity, to retain project proceeds generated when the units were purchased by eligible homebuyers with private first mortgage financing. No additional HOME funds were provided to the purchasers, and resale restrictions were placed on the units according to HOME Program requirements. (If recapture provisions were used, any HOME subsidy recaptured during the period of affordability on each unit would be considered program income and must be used for HOME-eligible activities.) The use of the proceeds, identified as additional acquisition and rehabilitation of housing for sale to low-income homebuyers, had been stipulated in the written agreement between Middle City and Community Builders. The proceeds were not considered program income, and would not have to be spent prior to the expenditure of additional HOME Program funds.